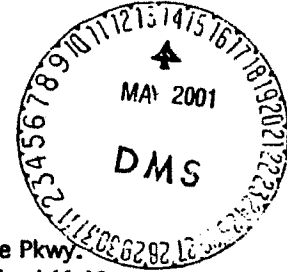


RFM



5/10/01

9543 Greystone Pkwy.
Brecksville, Ohio 44141

Jeffrey Green, Ph.D.
PDC, Inc.
1350 Main Street
Springfield, MA 01103-1619

Dear Dr. Green:

I am in receipt of your letter of 4/24/01, as well as a copy of the letter by Mr. Kearney, dated 4/11/01. You have asked me to provide you with comments regarding Mr. Kearney's letter.

I did speak with Mr. Kearney's brother, Timothy Kearney, by telephone on 3/15/01. The contact was made as part of my evaluation of Mr. Christopher Kearney and was within the scope of my agreement with PDC to obtain collateral information. Christopher Kearney signed an authorization for me to talk with his brother (see attached). I advised both Mr. Timothy and Mr. Christopher Kearney from the outset that the evaluation process is not confidential.

In the course of my conversation with Timothy Kearney, he made statements about his brother, Christopher, which appeared to be inconsistent with information obtained from testing conducted during the evaluation process. While I do not remember the details of the conversation with Mr. Timothy Kearney, two of the issues which we discussed were Christopher's reported shyness and aptitude for sales work. I noted in general terms that there was other information which varied from Mr. Timothy Kearney's observations. The conversation on these issues was short and I do not recall any specifics regarding any mention of the source of the discrepancies in question.

Sincerely,

A handwritten signature in cursive script, appearing to read "Otto Kausch".

Otto Kausch, M.D.



JOSEPH R. LEVY

Forensic Accounting Services to the Insurance Industry

A DIVISION OF SHALIK, MORRIS & COMPANY, LLP
Certified Public Accountants

7001 Brush Hollow Road • Westbury, NY 11590
Phone: 516.338.0800 or 516.338.8700
Fax: 516.338.5592



May 7, 2001

Mr. Christopher Kearney

Redacted

Our File: #8539
DMS File: #H493029,538069
D/D: 1993

Dear Mr. Kearney:

We have had an opportunity to inspect and summarize the records contained in the box you sent to us on March 19, 2001. While these records do fulfill a portion of the records requested in my March 26, 2001 letter to you, there remain many other records that have not yet been furnished and are still needed in order to verify your disability income claim. The missing records are listed below.

1. Personal income tax returns (Form 1040), including all W-2 forms, 1099 forms and accompanying schedules for the years 1988-1992 and 2000.
2. Corporate income tax returns (Form 1120) prepared for Kearney & Associates, Inc. covering the fiscal years 1988-1992.
3. Corporate income tax return (Form 1120S) prepared for Kenwood Technology Group, Inc. for the year 2000.

3251

Mr. Christopher Kearney
May 7, 2001
Page 2

4. Monthly financial statements for Kearney & Associates, Inc. (if they are prepared in the normal course of doing business) covering the period from 1988 to the date the business closed.
5. General ledgers or accountant's worksheets summarizing monthly transactions of Kearney & Associates, Inc. from the date of inception until the date the business closed.
6. General ledgers or accountant's worksheets summarizing monthly transactions of Kenwood Technology Group, Inc. for all periods in the year 2001.
7. Books of original entry, including:
 - a. Cash receipts journal
 - b. Cash disbursements journal
 - c. Sales or billings journals
8. Sales invoices or other records which could be used to substantiate the sales of Kearney & Associates, Inc. from the date of inception until the date the business closed.
9. Sales invoices or other records which could be used to substantiate the sales of Kenwood Technology Group, Inc. for the year 2001 to date.
10. If complete sales records are not available, please furnish the name, address and telephone number of each customer or client for both businesses.
11. Monthly bank statements and canceled checks for all bank accounts maintained by Kearney & Associates, Inc. that reflect business income and expense transactions as well as information showing the source of all funds deposited into the accounts. These records should

Mr. Christopher Kearney

May 7, 2001

Page 3

cover the period from the date of inception until the date the business closed.

12. Monthly bank statements and canceled checks for all bank accounts maintained by Kenwood Technology Group, Inc. that reflect business income and expense transactions as well as information showing the source of all funds deposited into the accounts. These records should cover all periods in the year 2001 to date.
13. All payroll records maintained by both businesses, including quarterly payroll tax returns required to be filed with the Internal Revenue Service (Form 941) and the State of Ohio.
14. Corporate income tax returns (Form 1120 or 1120S) prepared for Innovation, Inc. covering each year you were a principal owner in the business. Once again, we will notify you if we require any additional records for this business after we have had an opportunity to inspect the corporate income tax returns.

The records listed above should cover the period from fiscal 1988 up through the date the company ceased operating for Kearney & Associates, Inc. and for all periods in the year 2001 to date for Kenwood Technology Group, Inc.

By copy of this letter, I am notifying Disability Management Services that you have not yet provided our office with all of the documentation required in order to properly evaluate your disability income claim.

Mr. Christopher Kearney
May 7, 2001
Page 4

I would appreciate it if you would let me know when the records requested in this letter will be made available for inspection. You may reach me by calling (516) 338-0800 or 338-8700.

Very truly yours,

SHALIK, MORRIS & COMPANY, LLP

A handwritten signature in cursive script that reads "Leslee Hymowitz".

Leslee Hymowitz

LH/bes:emk

Copy to Bob Mills - Disability Management Services

Disability Management Services, Inc.

A Third Party Administrator for

The Equitable Life Assurance Society of The United States

1350 Main Street, Springfield, MA 01103-1628

(413) 747-0990 ext.1008 or (800) 299-6921 Fax: (413) 747-1545

John T. Kenney, Ph.D. ABPP
Parkway Medical Building South
3619 Park East Drive, Suite 313
Beachwood Ohio 44122-4312

5/7/01

Dear Dr. Kenney:

Please allow me to introduce myself. I am a licensed psychologist and clinical director for Disability Management Services, Inc. I have been asked to review and comment in the case of Christopher Kearney claim # H-493029, H-538069. I would appreciate copies of all raw data and computer generated reports used in the evaluation conducted by you. The data will be helpful in my review process. DMS has a records policy, which sees all raw data kept separately from the claim file and housed under my supervision in a locked file. Should you have any questions don't hesitate to contact me.

Respectfully submitted,

Jeff Green, Ph.D.
Licensed Psychologist
Clinical Director, DMS Inc.

Disability Management Services
Research Information



Date: April 27, 2001

To: Bob Mills

S

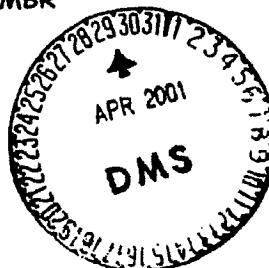
Re: Kearney
Policy # H493029

Pending: Please advise if you want me to continue to follow up with the State of OH corp department to get Articles of Incorporation and Annual Reports, or if the info attached answers your questions. Thanks!

Attachments:

- ☐ Consumer Credit Report
- ☐ Court Records
- ☐ Business Report
- ☐ SEQY ☐ DEQY
- ☐ Fictitious Name Search
- ☐ Licensed Occupation Check
- ☐ MVR-Driver Information
- ☐ Newspaper
- ☐ Phone Number Trace/Owner
- ☐ Autotrack
- ☐ Property/Real Estate
- ☐ SS # Trace
- ☐ Vehicle Ownership
- ☐ Workers' Compensation
- ☐ Accident Index
- ☐ Discovery Report
- ☒ Info from the OH website

☐ MBR



Thank you,

Barb Bailey

3259

Psychiatric Disability Consultants, Inc.

April 24, 2001

Otto Kausch, MD
9543 Greystone Parkway
Brecksville, Ohio 44141

RE: Christopher Kearney

Dear Dr. Kausch:

I am in receipt of your evaluation, conducted at the request of Disability Management Services, on Christopher Kearney, who has a claim for disability benefits managed by Disability Management Services. Subsequent to completion of the independent medical evaluation, Disability Management Services received a letter addressed to Mr. Mills from Christopher Kearney. I am enclosing a copy of that letter for your review and commentary.

The independent medical evaluation review process is continuing and I may well be addressing additional inquiry to you as is warranted in this case. I appreciate your assistance and look forward to hearing from you regarding your comments on this matter.

Respectfully submitted,

Jeffrey Green, Ph.D.
Clinical Director, PDC, Inc.

JG/cm
62009329424

Christopher L. Kearney

Redacted

Robert Mills
Disability Management Services, Inc.
1350 Main St.
Springfield, MA 01103-1628



April 11, 2001

Mr. Mills:

I am outraged and very disturbed to find out that your board certified psychiatrist, Otto Kausch, M.D., disclosed to my brother, Timothy L. Kearney, confidential results or interpretation of results from the recent psychological testing I underwent for your purposes.

I was told by both Dr. Kenny, the psychologist, and Dr. Kausch that the test results were not available to me or my doctor, only to the insurance carrier or its representative, DMS.

I gave Dr. Kausch my permission, in good faith, to briefly talk with my brother and mother. He specifically told me: "to ask a few questions, not to disclose confidential information about you."

He told my brother on 3-15-01 that psychological personality testing recently taken by me indicates that I am "shy and withdrawn" and that my sales aptitude is "very poor." My brother told me of these disclosures the next day after talking to Dr. Kausch.

My brother told me that he was "shocked" that the doctor disclosed this to him. Whether this description of me is accurate or not, I am very upset that he would choose to disclose this to a family member without my consent. I find the description to be highly embarrassing. Dr. Kausch could have just stuck to "a few questions" without disclosing these test results.

In many letters to you, I have expressed my deepest concerns about personal, medical or psychological information being disclosed by you or your representatives to my family, friends, or business contacts. See my letters to you of 8-11-00, and 2-23-01 regarding my anxiety that improper disclosures might occur.

Your letter to me of March 7, 2001 states: "You can rest assured that while the authorization allows us to obtain information from various sources, it does not allow us to divulge to anyone, any of your personal medical information." (the underlining of the words for emphasis was done by you in your original letter)

Also, I am very concerned that any or all of my medical and psychological records now in your hands will be distributed, for your purposes, to various contractors across the country for "medical review." I am aware of the investigations done by the NBC television news program *Dateline* alleging that some medical decisions were made by non-medical or unqualified personnel in the insurance industry.

I plan to discuss these and other issues with the Ohio Dept. of Insurance and the State Medical Board of Ohio. I expect you to send a copy of all of the findings of the two doctors to my doctor, Dr. Donna McClure, immediately as you have promised in your letter of 2-2-01.

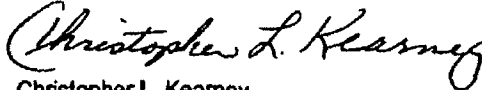
3262

I believe that I have the right to see medical and psychological information about myself already disclosed to a third party without my consent.

I am also very distressed that Dr. Kausch told me in a phone call on 3-15-01 that my doctor, Dr. McClure, notes in her patient notes that I am "an alcoholic." I asked where specifically it says that I am "an alcoholic" as I have a copy of the patient notes. He recanted and said that "she had questions of possible alcohol addiction."

I am offended at his attempt to label me as an "alcoholic." Furthermore, I am very concerned about what DMS and all of its agents are telling my family, friends, neighbors, business contacts, etc. in your "ongoing evaluation of my claim."

Sincerely,

A handwritten signature in cursive script that reads "Christopher L. Kearney". The signature is written in black ink and is positioned above the printed name.

Christopher L. Kearney

cc: Strauss & Troy, Charles H. Melville

Christopher L. Kearney

Redacted

PLEASE
RESPOND

Thursday, April 05, 2001

COPY

Leslie Hymowitz
Shale, Morris & Co., LLP
7001 Brush Hollow Rd.
Westbury, NY 11590
Mr. Hymowitz

PLEASE
RESPOND

I am disturbed that once again you have asked for a mountain of documents for Kearney Associates, Inc. dating back to 1988.

Your letters are all copied to Mr. Mills at Disability Management whom I told by letter on 12-22-00 that I have no further documents to send concerning Kearney Associates, Inc. I also discussed this on the phone with him. Why hasn't he told you of this?

I have already provided 1992, 1993 personal tax returns as shown in my files. Earlier tax returns were given to your representative in order to prove income and buy the policies. Ask your representative for these.

I did recently come across a W-2 Wage and Tax Statement for 1995 for Kearney Associates, Inc. It was in a folder with copies of personal returns. Enclosed is a copy for you. I have crossed out the middle and last names of the employees in 1995 due to some very serious issues I now have with DMS concerning confidentiality of personal information.

When I receive the copies of the tax returns for Immonition, Inc. from the IRS, I will forward them to you unless I hear otherwise from you or Mr. Mills.

When are you going to send me copies of tax returns and Social Security Documents that I signed for "Access to you"? Or is this a disclosure to me that you are going to withhold?

Sincerely,

Chris Kearney

Chris Kearney

PLEASE
RESPOND

ESLEE HYMOWITZ
IK MOSES CO, LLP
1 BRUSH HOLLOW RD
WESTBURY, NY
11590

SENDER: COMPLETE THIS SECTION		ADDRESSEE: IF YOU ARE RETURNING TO THE SENDER, COMPLETE THIS SECTION ONLY	
<p>1. Complete Items 1, 2, and 3. Also complete Item 4 if Practical Delivery is desired.</p> <p>a. Print your name and address on the reverse of this card so that we can return the card to you.</p> <p>b. Attach this card to the back of the envelope, or on the front if space permits.</p> <p>2. Address Attention to:</p> <p>3. Specify the Return Type:</p> <p>4. Specify the Return Class:</p> <p>5. Specify the Return Method:</p> <p>6. Specify the Return Period for the Return:</p> <p>7. Specify the Return Period for the Return:</p> <p>8. Specify the Return Period for the Return:</p> <p>9. Specify the Return Period for the Return:</p> <p>10. Specify the Return Period for the Return:</p> <p>11. Specify the Return Period for the Return:</p> <p>12. Specify the Return Period for the Return:</p> <p>13. Specify the Return Period for the Return:</p> <p>14. Specify the Return Period for the Return:</p> <p>15. Specify the Return Period for the Return:</p> <p>16. 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Disability Management Services
Research Information



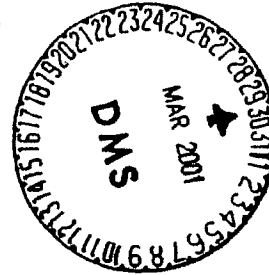
Date: March 28, 2001

To: Bob Mills

Re: Kearney
Policy # H493029

Pending:

S



Attachments:

- ☐ Consumer Credit Report
- ☐ Court Records
- ☐ Business Report
- ☐ SEQY ☐ DEQY ☐ MBR
- ☐ Fictitious Name Search
- ☐ Licensed Occupation Check
- ☐ MVR-Driver Information
- ☐ Newspaper
- ☐ Phone Number Trace/Owner
- ☐ Autotrack
- ☐ Property/Real Estate
- ☐ SS # Trace
- ☐ Vehicle Ownership
- ☐ Workers' Compensation
- ☐ Accident Index
- ☐ Discovery Report
- ☒ Innomation information

Thank you,

Barb Bailey

3267

**Business Information**

Business Name	Charter / Registration Number	Type	Original Filing Date	Status	Expiration Date	Location / County / State	Agent / Contact Info	Business Filing Info View Images /	Prior Busin Name Info
INNOMATION, INC.	922848	Corporation For Profit	Nov 17 1995	Active		Cincinnati Hamilton Ohio	Click for Details	Click for Details	Click for Details

Row(s) 1 - 1

[Back to Menu](#)

3268



Agent/Contact Information

Agent Name	Agent Address	City	State	Zip	Agent Effective Date	Agent Status
Charles H Melville	201 E Fifth St #2100	Cincinnati	Ohio	45202	Nov 17 1995	Active

Row(s) 1 - 1

[Back to Menu](#)

3269

**Disability Management Services
Research Information**



Date: March 27, 2001

To: Bob Mills

S

Re: Chris Kearney

Policy # H493029

Pending: Copies of Articles of Incorporation and Annual reports. Am continuing to follow up with the State of OH.

Attachments:

- ☐ Consumer Credit Report
- ☐ Court Records
- ☐ Business Report
- ☐ SEQY ☐ DEQY ☐ MBR
- ☐ Fictitious Name Search
- ☐ Licensed Occupation Check
- ☐ MVR-Driver Information
- ☐ Newspaper
- ☐ Phone Number Trace/Owner
- ☐ Autotrack
- ☐ Property/Real Estate
- ☐ SS # Trace
- ☐ Vehicle Ownership
- ☐ Workers' Compensation
- ☐ Accident Index
- ☐ Discovery Report
- ☒ Website info for Kearney Associates

Thank you,

Barb Bailey

3270

Page 1 of 1



Agent/Contact Information

Agent Name	Agent Address	City	State	Zip	Agent Effective Date	Agent Status
Lance S Cox	480 Ohio Pike	Cincinnati	Ohio	45230	Feb 05 1982	Active

Row(s) 1 - 1

[Back to Menu](#)

3271

**Business Filing Information**

Business Name	Filing Type	Filing Date	Doc Id <i>Click for Image I</i>	Additional Filing Type Info
KEARNEY ASSOCIATES, INC.	Domestic Articles/For Profit	Feb 05 1982	F029_1510	
	Domestic/Amendment To Articles	Jul 13 1988	G434_0823	Domestic Change Of Location, Change Of Name
	Domestic Continued Existence Letter	Sep 09 1993	000000052541	
	Domestic Continued Existence	Nov 08 1993	000000052542	

Row(s) 1 - 4

[Back to Menu](#)

3272



Prior Business Name Information

Prior Name	Change Date	Current Name
C. L. KEARNEY ASSOCIATES, INC.	Jul 13 1988	KEARNEY ASSOCIATES, INC.

Row(s) 1 - 1

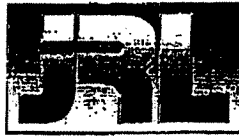
[Back to Menu](#)

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03/26/2001 14:16 201-825-4873

JOSEPH LEVY CPA

PAGE 18



JOSEPH R. LEVY

Forensic Accounting Services to the Insurance Industry

A DIVISION OF SHALIK, MORRIS & COMPANY, LLP

Certified Public Accountants

7001 Brush Hollow Road Westbury, NY 11590
Phone: 516.338.8700 Fax: 516.338.5592

March 26, 2001

Mr. Christopher Kearney

Redacted

Our File: #8539

DMS File: #H493029, 538069

D/D: 1993

Dear Mr. Kearney:

On March 16, 2001, you wrote to me to advise that you would be sending a box of records for Kenwood Technology Group, Inc. This documentation was received by us on March 23, 2001. Once we have had an opportunity to summarize and analyze the information provided, we will submit our findings to the insurance carrier.

In my January 12, 2001 letter to you, I provided a detailed listing of the records we would need to see covering the period from January 1988 up through the present time in the year 2001. If the box of records you recently submitted is only for Kenwood Technology Group, Inc., then these records would cover only the years 1998-2000 and 2001 to date.

In order to properly evaluate your disability income claim, we still need to see records for Kearney & Associates, Inc. covering periods before and after the onset of your disability. For your convenience, I have listed below the records that we still need to see.

1. Personal income tax returns (Form 1040), including all W-2 forms, 1099 forms and accompanying schedules for the years 1988-1992 and 2000.

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03/26/2001 14:16 201-825-4873

JOSEPH LEVY CPA

PAGE 19

Mr. Christopher Kearney
March 26, 2001
Page 2

2. Corporate income tax returns (Form 1120) prepared for Kearney & Associates, Inc. covering the fiscal years 1988-1992.
3. Corporate income tax return (Form 1120S) prepared for Kenwood Technology Group, Inc. for the year 2000.
4. Monthly financial statements for both Kearney & Associates, Inc. and Kenwood Technology Group, Inc. (if they are prepared in the normal course of doing business) covering the period from 1988 to date.
5. General ledgers or accountant's worksheets summarizing monthly transactions of both businesses.
6. Books of original entry for both business, including:
 - a. Cash receipts journal
 - b. Cash disbursements journal
 - c. Sales or billings journals
7. Sales invoices or other records which could be used to substantiate the sales of both businesses.
8. If complete sales records are not available, please furnish the name, address and telephone number of each customer or client for both businesses.
9. Monthly bank statements and canceled checks for all bank accounts that reflect business income and expense transactions as well as information showing the source of all funds deposited into the accounts.
10. All payroll records maintained by both businesses, including quarterly payroll tax returns required to be filed with the Internal Revenue Service (Form 941) and the State of Ohio.

3275

03/26/2001 14:16 281-825-4873

JOSEPH LEVY CPA

PAGE 20

Mr. Christopher Kearney
March 26, 2001
Page 3

11. Corporate income tax returns (Form 1120 or 1120S) prepared for Innomation, Inc. covering each year you were a principal owner in the business. In your March 16, 2001 letter, you said you did not receive payroll or dividends from this company. However, we need to satisfy ourselves regarding your involvement with this business. Once we have had an opportunity to examine the corporate income tax returns, we will advise you whether we need to see any other records for Innomation, Inc.

The records listed above should cover the period from fiscal 1988 up through the date the company ceased operating for Kearney & Associates, Inc. and from 1998 to date for Kenwood Technology Group, Inc. As noted above, you may have already sent us most of the information requested for Kenwood Technology Group, Inc.

I would appreciate it if you would let me know when the records requested in this letter will be made available for inspection. You may reach me by calling (516) 338-8700.

Very truly yours,

SHALIK, MORRIS & COMPANY, LLP

Leslee Hymowitz

Leslee Hymowitz

LH/bes:emk

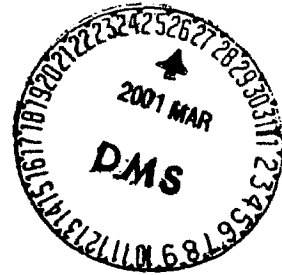
Copy to Bob Mills - Disability Management Services

3276

RFM

Chrisopher L. Kearney

Redacted



Wednesday, March 21, 2001

Robert Mills
Disability Management Services, Inc.
1350 Main St.
Springfield, MA 01103-1628

Mr. Mills:

I received your letter of March 7, 2001. I have some issues to discuss with you about some of your statements. I will address these issues in a future letter after reviewing my files.

You have asked for information about the company Innovation, Inc. I owned this company for several years- it is now out of business. The work I did for Innovation, Inc. was as an agent of Kearney Associates, Inc. I was involved in sales and some management. The time I spent has already been accounted for in my reports for Kearney Associates, Inc. I was not on the payroll, I did not receive any dividends. My personal tax returns are accurate.

I was never an employee and I funded this company with my own personal resources, therefore there was no reason to report this to you. The Occupational Duties Form is apparantly designed for employees. As stated, my employer was not Innovation, Inc.

I will get the tax returns requested and send to you.

I have attended all of the doctors sessions you set up and I have recently sent a box of documents to Ms. Hymowitz to look over.

Sincerely,

Chris Kearney
Chris Kearney

3277

Christopher L. Kearney

Redacted



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Robert Mills
Disability Management Services,
1350 Main St. Inc.
Springfield, MA

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JOSEPH LEVY CPA

PAGE 01



JOSEPH R. LEVY

Forensic Accounting Services to the Insurance Industry

A DIVISION OF SHALIK, MORRIS & COMPANY, LLP

Certified Public Accountants

775 W. Crescent Avenue P.O. Box 77 Allendale, NJ 07401

Phone: 201.825.9290 Fax: 201.825.4873

TELEFACS TRANSMISSION

DATE: March 26, 2001

TO: Bob Mills

FAX #: 413-747-1545

FROM: Joseph R Levy CPA

No. of pages including this cover page: 20

Our File: #8639

Your File: #H493029, 538069

Re: Christopher Kearney

Please hand deliver this message to the above-referenced immediately upon receipt. Thank you.

Should you have any trouble with the reception of this transmission, please call (201) 825-9290.

3279



JOSEPH R. LEVY

Forensic Accounting Services to the Insurance Industry

A DIVISION OF SHALIK, MORRIS & COMPANY, LLP

Certified Public Accountants

7001 Brush Hollow Road Westbury, NY 11590
Phone: 516.338.8700 Fax: 516.338.5592

March 26, 2001

Mr. Christopher Kearney

Redacted

Our File: #8539

DMS File: #H493029,538069

D/D: 1993

Dear Mr. Kearney:

On March 16, 2001, you wrote to me to advise that you would be sending a box of records for Kenwood Technology Group, Inc. This documentation was received by us on March 23, 2001. Once we have had an opportunity to summarize and analyze the information provided, we will submit our findings to the insurance carrier.

In my January 12, 2001 letter to you, I provided a detailed listing of the records we would need to see covering the period from January 1988 up through the present time in the year 2001. If the box of records you recently submitted is only for Kenwood Technology Group, Inc., then these records would cover only the years 1998-2000 and 2001 to date.

In order to properly evaluate your disability income claim, we still need to see records for Kearney & Associates, Inc. covering periods before and after the onset of your disability. For your convenience, I have listed below the records that we still need to see.

1. Personal income tax returns (Form 1040), including all W-2 forms, 1099 forms and accompanying schedules for the years 1988-1992 and 2000.

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Mr. Christopher Kearney
March 26, 2001
Page 2

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7. Sales invoices or other records which could be used to substantiate the sales of both businesses.
8. If complete sales records are not available, please furnish the name, address and telephone number of each customer or client for both businesses.
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Mr. Christopher Kearney
March 26, 2001
Page 3

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I would appreciate it if you would let me know when the records requested in this letter will be made available for inspection. You may reach me by calling (516) 338-8700.

Very truly yours,

SHALIK, MORRIS & COMPANY, LLP

Leslee Hymowitz

Leslee Hymowitz

LH/bes:emk

Copy to Bob Mills - Disability Management Services



JOSEPH R. LEVY

Forensic Accounting Services to the Insurance Industry

A DIVISION OF SHALIK, MORRIS & COMPANY, LLP

Certified Public Accountants

*775 W. Crescent Avenue P.O. Box 77 Allendale, NJ 07401
Phone: 201.825.9290 Fax: 201.825.4873*

March 26, 2001

Sent via regular mail & FAX

Mr. Robert Mills
Disability Management Services
1350 Main Street
Springfield, MA 01103

Our File: #8539
Your File: #H493029,538069
D/D: 1993

Subject: Christopher Kearney

Redacted

PRELIMINARY REPORT & ANALYSIS

The claimant is alleging a disability due to depression that began in 1993, and he is claiming a residual loss of earnings as a result of this disability. You have requested us to examine all relevant books and records in order to obtain information that would be useful to you in processing this claim.

We examined the claimant's 1993-1999 personal income tax returns (Form 1040 or 1040-EZ). The claimant has filed tax returns as a single individual since 1994. Information taken from the personal income tax returns provided to us is shown below.

C o n t i n u e d

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Mr. Robert Mills
Re: Christopher Kearney

March 26, 2001
Page 2

	1999	1998	1997	1996	1995	1994	1993
Wages - Claimant	\$ 2,500	\$ 5,000	\$ 8,000	\$14,000	\$29,300	\$22,800	\$51,139
Wages - Wife	--	--	--	--	--	--	4,950
Interest Income					20	17	368
Capital Gain (Loss)			35,229				
IRA Distribution						8,974	
Rental Income (Loss)			(2,368)	595	(3,879)	644	160
Personal Use of Car			1,850	1,900	1,700	1,596	3,523
Taxable Refunds of State & Local Income Taxes			312	457	136		50
Total Income	\$ 2,500	\$ 5,000	\$43,023	\$16,952	\$27,277	\$34,031	\$60,190

At our request, the claimant executed release forms so that we could obtain copies of his 1993-1999 personal income tax returns directly from the Internal Revenue Service as well as an earnings history for the years 1988-1999. Below we have listed the wages reported for the claimant to the Social Security Administration in the years 1988-1999.

Year	Kenwood Technology Group, Inc.	Kearney Associates, Inc.
1999	\$ 2,500	\$
1998	5,000	
1997		8,000
1996		14,000
1995		29,300
1994		22,800
1993		51,139
1992		99,512
1991		93,742
1990		51,300
1989		40,382
1988		34,884

Mr. Robert Mills
Re: Christopher Kearney

March 26, 2001
Page 3

The claimant received wages from his company Kearney Associates, Inc. in the years 1988-1997. The highest amount of wages paid to the subject by this company (\$99,512) occurred in the year 1992. Thereafter, the wages reported for the subject by Kearney Associates declined from \$51,139 in 1993 (year of the onset of the disability) to \$8,000 in 1997. The subject began receiving wages from his new company Kenwood Technology Group, Inc. in 1998. The subject's wages from this company amounted to \$5,000 in 1998 and \$2,500 in 1999.

Kearney & Associates, Inc. was incorporated on February 1, 1982. The claimant owned 100% of the common stock of this company, whose primary business activity was described as "sales - manufacturers' representative." The corporation had a fiscal year that ended on January 31. We were provided with the fiscal 1993-1998 corporate income tax returns (Form 1120) prepared for Kearney & Associates, Inc. Information taken from these tax returns is shown on Schedule I. Below we have summarized certain information from Schedule I.

C o n t i n u e d

Mr. Robert Mills
Re: Christopher Kearney

March 26, 2001
Page 4

FOR THE FISCAL YEAR ENDED JANUARY 31						
	1998	1997	1996	1995	1994	1993
Sales	\$ 32,850	\$127,070	\$179,497	\$141,941	\$124,246	\$196,017
Interest Income						630
Capital Gain				5,439		
Total Revenue	32,850	127,070	179,497	147,380	124,246	196,647
Less expenses:						
Officer's Compensation	8,000	14,000	29,300	30,600	28,500	109,651
Salaries & Wages	0	63,003	54,846	4,846	3,811	3,801
Commissions	0	0	2,762	31,800	4,100	0
Meals & Entertainment	8,225	9,723	9,661	7,758	8,354	8,339
Travel	45	22,940	23,318	9,481	7,418	32,782
Automobile	8,129	4,191	6,080	6,573	6,732	5,681
All Other	16,009	37,195	47,245	53,597	58,337	38,991
Total Expenses	40,408	151,052	173,212	144,655	117,252	199,245
Net Income (Loss)	\$ (7,558)	\$ (23,982)	\$ 6,285	\$ 2,725	\$ 7,344	\$ (2,598)

The corporation's sales declined from \$196,017 in fiscal 1993 to \$124,246 in fiscal 1994. Sales increased to \$141,941 in fiscal 1995 and \$179,497 in fiscal 1996 before declining to \$127,070 in fiscal 1997 and \$32,850 in fiscal 1998.

The amounts reported as officer's compensation represented the subject's wages from the company. The claimant's wages declined from a high of \$109,651 in the fiscal year ended January 31, 1993 to \$28,500 in fiscal 1994, \$30,600 in fiscal 1995 and \$29,300 in fiscal 1996. The claimant's wages declined even further and amounted to \$14,000 in fiscal 1997 and \$8,000 in fiscal 1998.

Salaries and wages to all other employees were roughly the same in fiscal 1993 (\$3,801), fiscal 1994 (\$3,811) and fiscal 1995 (\$4,846). There was a significant increase in the salaries and wages to all other employees in fiscal

Mr. Robert Mills
Re: Christopher Kearney

March 26, 2001
Page 5

1996 (\$54,846) and fiscal 1997 (\$63,003). No salaries and wages were reported for other employees in fiscal 1998.

The corporation reported commission expense in fiscal 1994 (\$4,100), fiscal 1995 (\$31,800) and fiscal 1996 (\$2,762).

After deducting all costs and expenses, Kearney & Associates, Inc. reported a net loss of \$2,598 in fiscal 1993 followed by net income in fiscal 1994 (\$7,344), fiscal 1995 (\$2,725) and fiscal 1996 (\$6,285). The corporation reported net losses in fiscal 1997 (\$23,982) and fiscal 1998 (\$7,558).

The expenditures for labor (salaries and wages plus commissions but excluding officer's compensation) increased from \$3,801 in fiscal 1993 to \$7,911 in fiscal 1994. A more significant increase in labor expense was reported in fiscal 1995-1997. Labor expense (other than officer's compensation) increased to \$36,646 in fiscal 1995, \$57,608 in fiscal 1996, and \$63,003 in fiscal 1997. There was no labor expense other than officer's compensation in fiscal 1998. The claimant states that he had to hire other salespeople to help him after the onset of his disability.

Even though the subject claims that his work activities were curtailed following the onset of his disability, certain business-related expenses (i.e., automobile expense and meals & entertainment expense) remained at approximately the same level throughout the six years examined. Also, we noted significant fluctuations in the corporation's travel expense. The company's travel expense declined from a high of \$32,782 in fiscal 1993 to \$7,418 in fiscal 1994 and \$9,481 in fiscal 1995 before increasing to \$23,318 in fiscal 1996 and \$22,940 in fiscal 1997. In fiscal 1998, the company reported travel expense of just \$45. The claimant explained that both his travel expenses and the travel expenses of the salespeople he hired were reported on the corporate income tax returns. As noted in the report above, the corporation reported its highest la-

Mr. Robert Mills
Re: Christopher Kearney

March 26, 2001
Page 6

bor expense (other than officer's compensation) in fiscal 1996 and fiscal 1997, which coincides with the unusually high travel expense reported in fiscal 1996 and fiscal 1997.

Attached to the business tax returns furnished to us were balance sheets listing the assets, liabilities and shareholder's equity as of January 31 in the years 1992-1998. Information taken from these balance sheets is shown on Schedule II. Below we have shown the balance in the shareholder loan account.

<u>As of 1-31</u>	<u>Loans to Shareholder</u>	<u>Loans from Shareholder</u>
1998	\$	\$70,865
1997		44,786
1996		10,320
1995	8,630	
1994	9,630	
1993	9,630	
1992	15,522	

After January 31, 1992, the claimant began repaying loans previously advanced to him from the corporation. By January 31, 1996, the corporation owed the claimant \$10,320, and at January 31, 1998, the corporation owed the claimant \$70,865 for loans made by him to the company.

The claimant began operating a new business known as Kenwood Technology Group, Inc. in 1998. This company was incorporated on August 26, 1998, and it elected to be taxed as an S corporation on January 1, 1999. In an S corporation, the company is not responsible for paying federal income taxes on its net taxable income. Instead, the net income or loss for each year is passed through to the individual stockholders of the company. These stockholders report their proportionate share of the corporation's net in-

Mr. Robert Mills
Re: Christopher Kearney

March 26, 2001
Page 7

come or loss on their personal income tax returns each year. Since the claimant owns 100% of the company's common stock, he is responsible for reporting all of the corporation's net income or loss on his personal income tax return each year.

The primary business activity shown for Kenwood Technology Group, Inc. is "manufacturing." The claimant told your consultant that this company consists of the claimant and several engineers who are retained on a consulting basis. The concept of the business is to bid on projects/systems that manufacturers need in-house that would require building a new tool using robotics or automation. We were provided with the 1998 and 1999 corporate income tax returns (Form 1120S) prepared for Kenwood Technology Group, Inc. Information from these two tax returns is shown on Schedule II. Below we have summarized certain information taken from Schedule II.

	1999	1998
Sales	\$ 74,416	\$ 20,131
Less: cost of goods sold	(88,404)	(14,993)
Gross Profit (Loss)	(13,988)	5,138
Less expenses:		
Officer's Compensation	2,500	0
Salaries & Wages	2,000	5,000
All Other Expenses	26,616	3,458
Total Expenses	31,116	8,458
Net Income (Loss)	<u>\$(45,104)</u>	<u>\$ (3,320)</u>

The sales of Kenwood Technology Group, Inc. increased from \$20,131 in 1998 (first year of doing business) to \$74,416 in 1999. No officer's compensation was reported on the 1998 corporate income tax return, but the company did

Mr. Robert Mills
Re: Christopher Kearney

March 26, 2001
Page 8

report salaries and wage expense of \$5,000 in 1998, which matches the wages reported on the claimant's 1998 personal income tax return. In 1999, the corporation reported officer's compensation amounting to \$2,500, which matches the wages reported on the claimant's 1999 personal income tax return. In 1999, Kenwood Technology Group, Inc. also reported salaries and wages to other employees of \$2,000.

Included as part of the 1999 cost of goods sold was subcontract engineering expense, which amounted to \$2,681. Below we have shown a breakdown of the cost of goods sold deducted on the 1998 and 1999 corporate income tax returns.

	1999	1998
Purchases	\$ 75,238	\$ 14,597
Subcontract Engineering	2,681	
(illegible)	823	
Small Tools	1,267	
Shop Supplies	8,395	
No breakdown furnished		396
Cost of Goods Sold	<u>\$ 88,404</u>	<u>\$ 14,993</u>

The corporation reported a high amount of purchases in the year 1999 (\$75,238), which exceeded the 1999 reported sales of \$74,416. No ending inventory was reported at December 31, 1999. This is not a reasonable relationship between purchases and sales.

In 1999, the corporation reported exhibition fee expense amounting to \$3,212, automobile expense of \$6,059 and travel expense of \$1,358. After deducting all costs and expenses, Kenwood Technology Group, Inc. reported net losses in the years 1998 (a loss of \$3,320) and 1999 (a loss of \$45,104).

Mr. Robert Mills
Re: Christopher Kearney

March 26, 2001
Page 9

Attached to the business tax returns furnished to us were balance sheets listing the assets, liabilities and shareholder's equity as of December 31 in the years 1998 and 1999. Information taken from these balance sheets is shown on Schedule IV. Below we have shown the balance in the shareholder's loan account.

<u>As of 12-31</u>	<u>Loans from Shareholder</u>
1999	\$47,881
1998	6,685

The loans from the claimant to this corporation amounted to \$6,685 as of December 31, 1998 and then increased to \$47,881 as of December 31, 1999.

The claimant's earned income would be equal to a combination of his wages plus the S corporation net income (loss). Below we have shown a calculation of the claimant's average monthly combined earnings in the years 1988-1999 based on the information furnished to us.

<u>Year</u>	<u>Wages</u>	<u>S Corp. Income (Loss)</u>	<u>Combined Earnings (Loss)</u>	<u>Average Monthly Earnings</u>
1999	\$ 2,500	\$(45,104)	\$(42,604)	\$ --
1998	5,000	(3,320)	1,680	140
1997	8,000		8,000	667
1996	14,000		14,000	1,167
1995	29,300		29,300	2,442
1994	22,800		22,800	1,900
1993	51,139		51,139	4,262
1992	99,512		99,512	8,293
1991	93,742		93,742	7,812
1990	51,300		51,300	4,275
1989	40,382		40,382	3,365
1988	34,884		34,884	2,907

Mr. Robert Mills
Re: Christopher Kearney

March 26, 2001
Page 10

It is our understanding that the claimant's prior monthly income (PMI) under his policy is based on the highest earnings reported in a single year out of the five years immediately preceding the date of disability. Under that circumstance, the year 1992 represents the highest earnings reported by the claimant in the period from 1988-1992, and his PMI would be equal to \$8,292.67 per month (\$99,512 divided by 12 months).

In order to properly evaluate the subject's disability income claim, we need to see the underlying books and records of his two businesses. On January 12, 2001, we wrote to the claimant and provided him with a detailed listing of the records we would need to examine in order to verify his claim. In our letter, we requested an opportunity to examine these records at his location during the week of January 22, 2001. A copy of our January 12, 2001 letter was sent to you at that time. The claimant responded with a letter to us, which was dated January 22, 2001. In that letter, he requested that we obtain from your office those records that he previously submitted in connection with this claim.

On February 1, 2001, we wrote a follow-up letter to the claimant and provided him with an updated listing of the records we still need to see. A copy of our letter was also sent to you at that time. The subject responded with his own letter dated February 12, 2001. The claimant provided us with executed release forms as well as his 1993 and 1995 W-2 forms and his 1994 personal income tax return. The subject advised that he sent a copy of his 2000 W-2 form to your office previously.

We recently received another letter from the claimant that was dated March 16, 2001, in which the claimant advised he would be sending us "a box of copies of bank statements, checks, general ledgers, POs, receipts, etc. for Kenwood Technology Group, Inc. There are approximately two thousand pages." In his March 16, 2001 letter, the subject did not mention that he would be sending us any re-

Mr. Robert Mills
Re: Christopher Kearney

March 26, 2001
Page 11

cords for Kearney & Associates, Inc., even though we requested complete documentation from 1988 up through the present time.

Information in your file indicates that the reduction in the claimant's earnings subsequent to 1992 may have been due to poor management of Kearney & Associates, Inc. and ill will between the claimant and some of his customers. If Kearney & Associates, Inc. went out of business for reasons other than the claimant's 1993 disability, then this might be relevant in terms of evaluating his reduced earnings claim.

You recently advised us that the claimant was involved with a company known as Innovation, Inc. In his March 16, 2001 letter, the subject stated the following about that company:

"I will discuss directly with DMS, the company called Innovation, Inc. which I owned for several yrs. This company was not my employer and I was not on the payroll. Further, I did not receive any dividends from this company."

We would like to see at least the corporate income tax returns and possibly the underlying records of this business in order to satisfy ourselves that the claimant did not receive any income from the business as alleged.

Enclosed is a copy of our most recent letter to the claimant, reiterating that we need to see the books and records of Kearney & Associates, Inc. in addition to the records he has promised to send us regarding Kenwood Technology Group, Inc. The records requested should provide us with a complete understanding of the business prior to the onset of the subject's disability in 1993.

We will continue to follow up with the claimant to obtain all of the records requested by us, and we will keep

Mr. Robert Mills
Re: Christopher Kearney

March 26, 2001
Page 12

you apprised of our findings. Our bill for services rendered to date will be sent to you under separate cover.

Very truly yours,

A handwritten signature in cursive script that reads "Joseph R. Levy". The signature is written in dark ink and is positioned above the printed name and title.

Joseph R. Levy
Certified Public Accountant

JRL/bes:emk
Enclosures

SCHEDULE I

Firm Name KEARNEY & ASSOCIATES, INC.STATEMENT OF INCOME & EXPENSES
FOR THE YEAR ENDED
January 31

	1998	1997	1996	1995	1994	1993
Sales	\$ 32,850	\$127,070	\$179,497	\$141,941	\$124,246	\$196,017
Less: Cost of Goods Sold	0	0	0	0	0	0
Gross Profit	32,850	127,070	179,497	141,941	124,246	196,017
Interest Income						630
Capital Gain				5,439		
Total Income	32,850	127,070	179,497	147,380	124,246	196,647
Less expenses:						
Compensation of Officers	8,000	14,000	29,300	30,600	28,500	109,651
Salaries & Wages		63,002	54,846	4,846	3,811	3,801
Rents	2,075	6,011	9,140	6,762	3,563	3,555
Taxes	772	6,495	7,361	2,934	2,710	4,870
Interest		1,209	1,749	1,473	808	1,058
Depreciation	4,990	4,115	8,483	19,325	17,177	4,642
Employee benefit programs	1,706	2,344	4,410			
Other deductions				4,356	4,612	
Insurance	112	1,558	6,350	6,101	4,089	8,589
Telephone	1,773	3,126	5,091	4,933	4,434	4,725
Heat, fuel, power				87	249	183
Professional Fees	335	2,636	1,275	1,255	1,771	2,141
Meals & Entertainment	8,225	9,723	9,661	7,758	8,354	8,339
Office	4,246	9,701	9,386	6,371	4,514	3,016
Automobile	8,129	4,191	6,080	6,573	6,732	5,681
Travel	45	22,940	23,318	9,481	4,100	
Commissions			2,762	31,800	7,418	32,782
Computer Training					14,450	6,212
All Other						
Total Expenses	40,408	151,052	173,212	144,655	117,292	199,245
Net Income (Loss)	\$ (7,558)	\$ (23,982)	\$ 6,285	\$ 2,725	\$ 7,344	\$ (2,598)

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